

April 14, 2004

Mr. Rolland A. Schmitten, Director
Office of Habitat Conservation
NOAA National Marine Fisheries Service
F/HC - EFH ANPR
1315 East-West Highway, Silver Spring, MD 20910

Office of Habitat Conservation

APR 19 2004

Received

RE: Document Identifier 0648-AR76

Dear Mr. Schmitten:

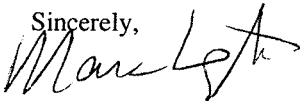
It has come to my attention that the National Marine Fisheries Service is currently seeking public comment on whether to revise the guidelines for protection of Essential Fish Habitat (EFH). This letter is to implore you to protect EFH and not weaken the EFH guidelines. These guidelines **MUST NOT BE WEAKENED**. If anything, the guidelines should be strengthened.

This is a classic, hot-button issue about who has the "rights": fishermen to fish, or the population as a whole to a sustainably managed natural resource. You must be in a very difficult position – I can only imagine. I also am very passionate about fisheries conservation, although I have not been fortunate enough to build a career around it. (If you have any job openings, paying or volunteer, please let me know and I will send you my resume!) Any decision you support will be slammed by one side or the other, and I do not envy you that eventuality.

Personally I believe that each person on the planet has the right to fish. Unfortunately, many commercial fishing concerns believe they also have an entitlement to fish as much as they want or can, and the rights of the other folks don't matter. Part of the solution is in regulation, in the management of entitlements, and let the result be a market solution driven by economic pressures. Essentially, the price of wild-caught fish will go up and it will be a case of supply and demand. Aquaculture will also become a more important resource. The key is not to allow pressure from any party, be it an ordinary taxpayer (like me) or a commercial fish house, to influence the rational and thoughtful consideration of the issues and the subsequent decision in the interest of future generations.

As stated by NMFS themselves - One of the greatest long-term threats to the viability of commercial and recreational fisheries is the continuing loss of marine, estuarine, and other aquatic habitats. Habitat considerations should receive increased attention for the conservation and management of fishery resources. As a licensed engineer, a marine engineer since the early 1980's, a board member of the St. Louis Children's Aquarium, a board member of the Marine Applied Research & Exploration foundation, an avid SCUBA diver ... and someone who paid his way through undergraduate school working on a fishing boat in the 1970's – please protect this precious resource for our children's children's children.

Sincerely,



Marc Lopata, PE
52 Arundel Place
St. Louis, MO 63105

Dear Mr Schmitt,

Essential Fish habitat (EFH)
guidelines should not be changed at
this time. Rather than revise the
guidelines, I strongly recommend that NMPS
revise and reissue its EFH technical guidance

Office of Habitat Conservation

APR 27 2004

Received

Sean McIntyre

Sean McIntyre

Dear Mr. Schmitten,

Essential Fish Habitat (EFH) guidelines should not be ~~changed~~ changed at this time. Rather than revise the guidelines, I recommend that NMFS revise and reissue its EFH Technical guidance.

Sincerely,

Jon Kelter



1055 Logan St. #1304

Denver, CO 80203

Office of Habitat Conservation

APR 27 2004

Received

4/23/04

Dear Mr. Schmitten,

Essential Fish Habitat (EFH)
guidelines should not be changed at
this time. Rather than revise the guidelines,
I strongly recommend that NMFS
revise and reissue its EFH Technical
Guidance.

Office of Habitat Conservation

APR 27 2004

Received

Sincerely,

Andrew Cohn
1714 S. Milwaukee St.
Denver, CO 80210

Dear Mr. Schmitten,

Essential Fish Habitat (EFH) guidelines should not be changed at this time. Rather than revise the guidelines I recommend the NMFS revise and reissue its EFH Technical Guidance.

Office of Habitat Conservation

APR 29 2004

Received

Thanks,

Jeff Link

Dear Mr. Schmitt:

Essential Fish Habitat (EFH) guidelines should not be changed at this time.

Rather than revise the guidelines, I recommend that NMFS revise & reissue its EFH Technical Guidance.

-Katie Kranz

K. Kranz

653 Corona

Denver, CO 80218

Office of Habitat Conservation

APR 20 2004

Received

4/22/04

Dear Mr. Schmitt

Essential Fish Habitat (EFH) guidelines should not be changed at this time. Rather than revise the guidelines I recommend that NMFS revise and reissue its EFH Technical Guidance. Please Respond to my concerns.

Office of Habitat Conservation

APR 29 2004

Received

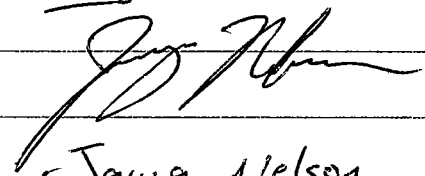
Thank you.

Liz Childress
171 S. Calle Ramona
Pueblo West CO
81007

Dear Mr. Schmitt,

Essential Fish Habitat (EFH) guidelines should not be changed at this time. Rather than revise the guidelines, I recommend that NMFS revise and reissue its EFH Technical Guidance

Sincerely,



Janya Nelson

1470 S. Ogden St.

Denver, CO

80210

Office of Habitat Conservation

APR 29 2004

Received

Dear Mr. Schmitt,

Essential Fish Habitat (EFH) guidelines should not be changed at this time. Rather than revise the guidelines, I recommend that NMFS revise and reissue its EFH technical guidance.

- Alex Garfield
Alex Garfield
2389 S. High
Denver, CO 80210

Office of Habitat Conservation

MAY 3 2004

Received

04/23/04

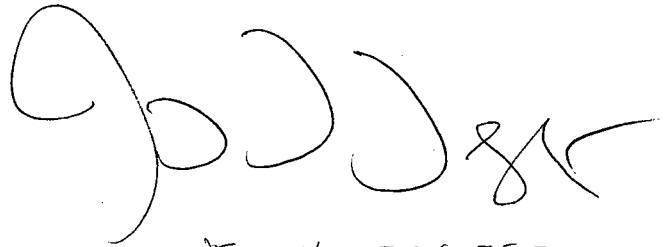
DEAR MR. SCHMITTEN,

ESSENTIAL FISH HABITAT (EFH) GUIDELINES
SHOULD NOT BE CHANGED AT THIS TIME. RATHER THAN
REVISE THE GUIDELINES, I RECOMMEND THAT
NMFS REVISE AND REISSUE ITS EFH ~~TECHNICAL~~ TECHNICAL
GUIDANCE.

Office of Habitat Conservation

MAY 3 2004

Received



JENNY LEGGETT
LAKEWOOD, CO

April 15, 2003

Mr. Roland A. Schmitten
Director Office of Habitat Conservation
NOAA Fisheries
F/Hc - EFH ANPR
1315 E-W Highway
Silver Spring MD 20910

Office of Habitat Conservation

APR 21 2004

Received

Dear Mr. Roland A. Schmitten

Please protect and sustain the marine environment and not reopen the essential Fish Habitat guidelines.

If people aren't burying toxic wastes or testing nuclear weapons they're throwing trash everywhere - you'd think planets like this were a dime a dozen... we're only as beautiful as what we do.

Paul Y

Paul Yaninas
214 Pierce St
SF CA 94115

Office of Habitat Conservation

APR 26 2004

Received

4/23/04

Dear Mr. Schmitt,

I am writing to you in regard to the state of our oceans. Pollution is destroying the habitat of many beautiful and diverse creatures that have made the ocean their home. It is of utmost importance that these coastal ecosystems are protected. Please do not weaken any legislation that protects fish or any other ocean life. I look forward to seeing the Office of Habitat Conservation take greater steps to protect our oceans. Thank you for your time.

Sincerely,
Melissa Henry
San Pedro, CA

Hello Mr Schmitt,

I would like to comment on the ANPR regarding Essential Fish Habitat. The habitat guidelines should not be changed at this time. Rather than changing the guidelines, may be we should try better implementation so that the standards are met. Lowering Standards so that we can meet them is not what I consider a Successful policy. Rather than revise the guidelines, we recommend that you revise and reissue the EFH Technical Guidance. Thank-you, and ~~we~~ we would appreciate a response

Office of Habitat Conservation

APR 26 2004

Received

Nik Haynes, Eric Hale

1757 Race St.

Denver CO 80206

Subject: rin 0648-AR76 dkt 03103272-3272-01 id 102903A public comment
Date: Fri, 27 Feb 2004 17:03:50 -0800 (PST)
From: jean public <jeanpublic@yahoo.com>
To: 0648-AR76@noaa.gov
CC: rodney.frelinghuysen@mail.house.gov

the largest stakeholders in this process are consistently purposely ignored - the stake of the american public. NOAA/NMFS allows commercial fish profiteers to run the fish industry for their own financial gain to the detriment of the general american public and to succeeding generations of their children.

The overfishing must be stopped. Fish sanctuaries must be established permanently where no fish profiteers can go and fish. We must cut all fish quotas 50% this year and 10% each succeeding year. That is the path that must be taken.

We must seize control of these fishing councils from the greedy commercial fish profiteers.

b. sachau
15 elm st
florham park nj 07932

Do you Yahoo!?
Get better spam protection with Yahoo! Mail.
<http://antispam.yahoo.com/tools>

Subject: EFH Comment
Date: Mon, 1 Mar 2004 15:43:40 -0500
From: "Capt. Monty" <mhawkins@siteone.net>
To: <0648-AR76@noaa.gov>

Comment on whether to revise EFH.

What is presently in place does not work. Not one area of live bottom along DE, MD and VA has even been recognized, let alone "protected and enhanced". If managers are going to be able to maximize production from low lying reef areas they need to protect them. They can't be protected if they aren't known about. Or, is ignorance bliss?

Natural complex bottom habitats must not be taken lightly. They are a major driver of several fisheries.

Yes - rewrite EFH so it has some teeth and better guidance.

Thanks,

Captain Monty Hawkins

Capt. Monty Hawkins
Party Boat "Morning Star"
www.morningstarfishing.com
410 520 2076 Advance Ticket and Info line
mhawkins@siteone.net
11546 Dolly Circle
Berlin, MD. 21811

Subject: FW: Comment letter on EFH - Advanced Notice of Proposed Rule - 0648-AR76
Date: Thu, 25 Mar 2004 14:44:30 -0900
From: "Liston, Kamenar" <KListon@Oceana.org>
To: <0648-AR76@noaa.gov>

March 25, 2004

Mr. Rolland A. Schmitten
Director
Office of Habitat Conservation
NOAA Fisheries
F/HC - EFH ANPR
1315 East-West Highway
Silver Spring, MD 20910

Dear Mr. Schmitten:

As a member of a concerned conservation group, I am writing to provide you with comments on the Advanced Notice of Proposed Rulemaking (ANPR) regarding the Essential Fish Habitat (EFH) regulations published in the Federal Register on February 25, 2004.

The current EFH regulations are appropriate and adequate for the identification of EFH, determining the effects of fishing activities on EFH, and protecting EFH from the adverse effects of fishing and non-fishing activities. The regulations should not be changed at this time. Most of the concerns with the EFH program can be resolved through better implementation of EFH regulations, not changing the regulations themselves. Rather than revising the regulations, we recommend that NMFS revise and reissue its EFH Technical Guidance.

I am very concerned that this additional ANPR will further undermine NMFS' EFH protection efforts by creating uncertainty regarding the agency's commitment to the program. Congress should not revise the EFH regulations; concerns about the program can be addressed through better implementation of the existing regulations. Thank you for considering my comments.

Sincerely,

Kamie Liston

PO Box 20252

Juneau, AK 99802

Subject: guidelines for protection of essential fish habitat
Date: Thu, 1 Apr 2004 20:08:09 -0500
From: "Robert A. Mertz" <ramertz@mountain.net>
To: <0648-AR76@noaa.gov>

Mr. Rolland A. Schmitten<?xml:namespace prefix = o ns = "urn:schemas-microsoft-com:office:office" />

Director

Office of Habitat Conservation

NOAA Fisheries

F/HC - EFH ANPR

1315 East-West Highway

Silver Spring, MD 20910

Dear Mr. Schmitten:

As a Biology, Wildlife Management and Environmental Earth Science teacher working in the public school systems of several states, for over twenty years I have been teaching students the importance of a sustainable life style. I want them to learn to live within the ecological budget of Earth. The quality of life for the present and future generations depends on keeping the life sustaining diversity of our complex life systems healthy. Although there are some impressive self-maintaining dynamics at work to stabilize these systems, there are limits to their ability to correct for continued stress. The geological record is full of evidence showing sudden drastic upheavals and ecological disasters. We have no valid reason to believe that we humans with our huge powers to alter the climate and ecosystems will not trigger another watershed shift in the world's balance that will result in condition that renders the Earth unsuitable for human life, or that degrades the quality of our existence to a much lower level. It is our duty as the most powerful species to exist on this planet to use our might to protect the integrity of our life support systems for the benefit of all living things, to do anything is the extreme in narrow minded, short sighted self indulgent stupidity.

The two sons my wife and I have produced are the most important things in my world. We have done everything to raise them to be strong and healthy. We have tried to equip them to enjoy their lives to the fullest extent while making a substantial contribution to the quality of life of others. They are sons to make us proud. Now it is my job to do my part to see that they, and their future children, and all their children's children have a quality existence as well. The love I feel for my sons demands that I do nothing less than give this effort my full persistent attention.

The current NMFS process for EFH reflects the intent of Congress, is flexible enough, and can succeed. Prior to the inclusion of the EFH requirements in the MSA, fish habitat was not adequately protected from destruction due to human activities.

Congress added the EFH requirements to the MSA in 1996 in order to specifically protect marine fish habitat. One purpose of the MSA is "to promote the protection of essential fish habitat in the review of projects conducted under federal permits, licenses, or other authorities that affect or have the potential to affect such habitat" (16 U.S.C. 1801(b)(7)). In addition, NMFS has made great efforts to minimize the complexity and streamline the EFH consultation process. NMFS has followed the Regulatory Flexibility Act requirements in developing the EFH guidelines. The Regulatory Flexibility Act does not require that conservation benefits outweigh economic costs, rather it requires that cost analyses be conducted and that the least expensive alternative that still meets MSA legal requirements is chosen. I am asking you to consider, do you have people in your life that mean this much to you? Will you do your part to make sure that all our children will have a future full of interesting creatures, clean water and pure air? Please help me for the sake of all of our children.

Sincerely,

Robert A. Mertz

Robert A. Mertz
1205 Mulberry Ridge Road
Spencer, WV, 25276
ramertz@mountain.net

Subject: 0648-AR76
Date: Mon, 5 Apr 2004 11:55:39 -0400
From: tparks@cato.com
To: 0648-AR76@noaa.gov

April 5, 2004

Mr. Rolland A. Schmitten
Director
Office of Habitat Conservation
NOAA Fisheries
F/HC - EFH ANPR
1315 East-West Highway
Silver Spring, MD 20910

Dear Mr. Schmitten:

I am writing on behalf of myself and husband who reside in North Carolina. These are our comments on the Advanced Notice of Proposed Rulemaking (ANPR) regarding the Essential Fish Habitat (EFH) guidelines published in the Federal Register on February 25, 2004. In summary, EFH

guidelines should not be changed at this time. Concerns with the EFH program can and should be resolved through better implementation of EFH guidelines. Current guidelines are sufficient to identify EFH, determine the effects of fishing activities on EFH, and protect EFH from the adverse effects of fishing and non-fishing activities. Rather than revise the guidelines, we recommend that NMFS revise and reissue its EFH Technical Guidance.

The current NMFS process for EFH reflects the intent of Congress, is flexible enough, and can succeed. Prior to the inclusion of the EFH requirements in the MSA, fish habitat was not adequately protected from destruction due to human activities. Congress added the EFH requirements to the MSA in 1996 in order to specifically protect marine fish habitat. One purpose of the MSA is "to promote the protection of essential fish habitat in the review of projects conducted under federal permits, licenses, or other authorities that affect or have the potential to affect such habitat" (16 U.S.C. 1801(b)(7)). In addition, NMFS has made

great efforts to minimize the complexity and streamline the EFH consultation process.Â NMFS has followed the Regulatory Flexibility Act requirements in developing the EFH guidelines.Â The Regulatory Flexibility Act does not require that conservation benefits outweigh economic costs, rather it requires that cost analyses be conducted and that the least expensive alternative that still meets MSA legal requirements is chosen.

A broad scope of EFH is necessary to protect fisheries. The reason that the area designated as EFH is broad is that marine species have more than one life stage, and each life stage may depend on a different habitat.Â The combined geographic distributions of the several hundred species that are managed in federal fisheries require protection of much of the U.S. EEZ.Â In addition, the scientific data is currently lacking on habitat-specific growth and survival, as well as productivity by habitat type.Â Designated areas are large to compensate for the poor resolution on specific habitat needs.Â These areas can, and should, be refined as the research progresses, but we can not afford to wait for scientific certainty to protect our threatened fisheries.

Protection of habitat for fish populations is critical to their long-term health and itâ€™s the law. Non-mandatory guidelines would likely

weaken necessary protection. Additionally, the EFH provisions in the Magnuson-Stevens Fishery Conservation and Management Act (MSA) are mandatory. Therefore, converting the EFH guidelines to guidelines and making the program advisory in nature would be inconsistent with the law and inappropriate.

Donâ€™t weaken the review process.Â Because EFH is critical to the survival of marine fish populations, Congress required that all federally conducted, funded, or authorized activities that â€œmay adversely affectâ€

EFH be specifically reviewed in order â€œto promote the protection of EFH.â€

This is a clear legal mandate, that NMFS does not have the legal authority to modify.Â Requiring that a â€œsignificance thresholdâ€ be met before

implementing EFH consultation procedures is not consistent with the law and would undercut EFH protection efforts.Â However, NMFS has made a good faith effort to streamline the consultation process so that activities with minimal impacts may be covered under expedited review procedures.Â In addition, we suggest that NMFS and the regional councils make better use of habitat areas of particular concern as a way to focus consultation activities.

The legal definition of EFH was created to protect the entire life cycle of managed fish species. The guidelines must apply to the areas where the fish live during all of their life stages.Â For many species that includes coastal and estuarine waters. Therefore, EFH guidelines must apply where the fish are found, even in state waters.

In conclusion, we are very concerned that this additional ANPR will further undermine NMFS's EFH protection efforts by creating uncertainty regarding the agency's commitment to the program.Â Congress should not revise the EFH guidelines; concerns about the program can be addressed through better implementation of the existing guidelines.

Thank you for considering our comments.

Sincerely,

Paul and Tammy Parks
1824 Teabrook Court
Raleigh, NC 27610

Subject: Don't reduce protections on fish, marine life and their habitats
Date: Wed, 7 Apr 2004 20:37:48 -0700 (PDT)
From: Dinda Evans <dindamcp4@yahoo.com>
To: 0648-AR76@noaa.gov

The National Marine Fisheries Service (NMFS) is considering weakening the current essential fish habitat (EFH) regulations, which prevents the destruction of essential marine habitats. We are asking you speak out in support of the current EFH regulations by faxing a comment letter to NMFS telling them to protect essential fish habitat (EFH) and not weaken the EFH guidelines.

As stated by NMFS themselves - One of the greatest long-term threats to the viability of commercial and recreational fisheries is the continuing loss of marine, estuarine, and other aquatic habitats. Habitat considerations should receive increased attention for the conservation and management of fishery resources of the United States.

The National Marine Fisheries Service is currently seeking public comment on whether to revise the guidelines for protection of essential fish habitat. We encourage you to take action to protect marine habitat.

Do you Yahoo!?
Yahoo! Small Business \$15K Web Design Giveaway
http://promotions.yahoo.com/design_giveaway/

Subject: document identifier: 0648-AR76
Date: Thu, 8 Apr 2004 05:29:13 -0700 (PDT)
From: clark andelin <cjandelin@yahoo.com>
To: 0648-AR76@noaa.gov

The National Marine Fisheries Service (NMFS) is considering weakening the current essential fish habitat (EFH) regulations, which prevents the destruction of essential marine habitats. I support the current EFH regulations and I want you to protect essential fish habitat (EFH) and not weaken the current EFH guidelines.

Clark Andelin
9607 Edwards Road
Fox River Grove, IL 60021
cjandelin@yahoo.com

Do you Yahoo!?
Yahoo! Small Business \$15K Web Design Giveaway
http://promotions.yahoo.com/design_giveaway/

Subject: please help protect essential fish habitat!
Date: Thu, 08 Apr 2004 09:44:39 -0400
From: "Anthony Cantarine" <acantari@scgov.net>
To: <0648-AR76@noaa.gov>

I implore you to please help protect essential fish habitat! I thank you on behalf of the oceans ecosystems and the generations of people to come who will depend on us preserving our marine resources today!

and
see the article on this website
<http://www.politicaloutreach.com/outreach/conservfish/default.asp>

Anthony Cantarine
Sustainable Sarasota(3rd floor)
1660 Ringling Blvd.
Sarasota, FL 34236

Subject:

Date: Thu, 8 Apr 2004 20:54:39 -0400

From: "Shawn Greenwell" <greensm@megabits.net>

To: <0648-ar76@noaa.gov>

Dear Mr. Schmitten,

I am writing to comment on the Advanced Notice of Proposed Rulemaking (ANPR) regarding the Essential Fish

Habitat (EFH) guidelines published in the Federal Register on February 25, 2004. The EFH guidelines should not be

changed at this time. Concerns with the EFH program can and should be resolved through better implementation.

The current guidelines are sufficient to identify EFH, determine the effects adverse of fishing activities on EFH,

and protect EFH from the adverse effects of fishing and non-fishing activities. I would like to respond to some of

the standard industry criticisms of the EFH guidelines.

The current NMFS process for protecting EFH reflects the intent of Congress, it is flexible, and can succeed. Prior

to the inclusion of the EFH requirements in the Magnuson-Stevens Fishery Conservation and Management Act

(MSA), fish habitat was not adequately protected from damage and destruction due to human activities. Congress

added the EFH requirements to the MSA in 1996 specifically to protect marine fish habitat.

A broad scope of EFH is necessary to protect fisheries. The total area currently identified as EFH is broad

because marine species have more than one life stage, and each life stage may depend on a different habitat.

The combined geographic distributions of the nearly 1,000 species that are managed in federal fisheries require

protection of much of the U.S. EEZ. In addition, there is limited scientific data on habitat-specific growth and

survival, as well as productivity by habitat type. Designated areas are large to compensate for the poor resolution

on specific habitat needs. These areas can, and should, be refined as the research progresses, but we cannot

afford to wait for scientific certainty to protect threatened fish habitat.

Protection of habitat for fish populations is critical to their long-term health and it is the law. The EFH provisions

in the MSA are mandatory. Therefore, converting the EFH guidelines to non-mandatory guidelines and making the

program advisory in nature would be inconsistent with the law and would weaken protections for EFH.

Do not weaken the review process. Because EFH is critical to the survival of marine fish populations, Congress

required that all federally conducted, funded, or authorized activities that “may adversely affect” EFH be

specifically reviewed in order “to promote the protection of EFH.” This is a clear legal mandate, that NMFS does

not have the legal authority to modify. Requiring that a “significance threshold” be met before protecting EFH is

not consistent with the law and would undercut EFH protection efforts. However, NMFS has made a good faith

effort to streamline the protection process so that activities with minimal impacts may be covered under

expedited review procedures.

The legal definition of EFH was created to protect the entire life cycle of managed fish species. The guidelines

must apply to the areas where the fish live during all of their life stages. For many species, that includes coastal,

riverine and estuarine waters. Therefore, EFH guidelines must apply where the fish are found, even in state

waters.

In conclusion, I am very concerned that this additional ANPR will further undermine NMFS’s EFH protection efforts

by creating uncertainty regarding the agency’s commitment to the program. NMFS should not revise the EFH

guidelines; concerns about the program can be addressed through better implementation of the existing guidelines.

Thank you for considering my comments.

Sincerely,

Shawn M. Greenwell

4970 Winchester Dr.
Titusville, Fl. 32780

Subject: 0648-AR76

Date: Wed, 14 Apr 2004 21:12:50 -0700

From: "DON MACKINNON" <don.mackinnon@verizon.net>

To: <0648-AR76@noaa.gov>

Wednesday, April 14, 2004

Written comments must be sent to Rolland A. Schmitten, Director, Office of Habitat Conservation, NOAA National Marine Fisheries Service, F/HC - EFH ANPR, 1315 East-West Highway, Silver Spring, MD 20910. Comments may also be sent via fax to (301) 427-2570 or by e-mail to 0648-AR76@noaa.gov. Include in the subject line of the e-mail comment the following document identifier: 0648-AR76.

Rolland A. Schmitten

Director, Office of Habitat Conservation

NOAA National Marine Fisheries Service, F/HC - EFH ANPR

Dear Mr. Schmitten:

I am writing to comment on the Advanced Notice of Proposed Rulemaking (ANPR) regarding the Essential Fish Habitat (EFH) guidelines published in the Federal Register on February 25, 2004. The EFH guidelines should not be changed at this time. Concerns with the EFH program can and should be resolved through better implementation. The current guidelines are sufficient to identify EFH, determine the effects of activities on EFH, and protect EFH from any adverse effects. I would like to respond to some of the standard industry criticisms of the EFH guidelines.

The current NMFS process for protecting EFH reflects the intent of Congress, it is flexible, and can succeed. Prior to the inclusion of the EFH requirements in the Magnuson-Stevens Fishery Conservation and Management Act (MSA), fish habitat was not adequately protected from damage and destruction due to human activities. Congress added the EFH requirements to the MSA in 1996 specifically to protect marine fish habitat.

A broad scope of EFH is necessary to protect fisheries. The total area currently identified as EFH is broad because marine species have more than one life stage, and each life stage may depend on a different habitat. The combined geographic distributions of the nearly 1,000 species that are managed in federal fisheries require protection of much of the U.S. EEZ. In addition, there is limited scientific data on habitat-specific growth and survival, as well as productivity by habitat type. Designated areas are large to compensate for the poor resolution on specific habitat needs. These areas can, and should, be refined as the research progresses, but we cannot

afford to wait for scientific certainty to protect threatened fish habitat.

Protection of habitat for fish populations is critical to their long-term health and it is the law. The EFH provisions in the MSA are mandatory. Therefore, converting the EFH guidelines to non-mandatory guidelines and making the program advisory in nature would be inconsistent with the law and would weaken protections for EFH.

Do not weaken the review process. Because EFH is critical to the survival of marine fish populations, Congress required that all federally conducted, funded, or authorized activities that “may adversely affect” EFH be specifically reviewed in order “to promote the protection of EFH.” This is a clear legal mandate, that NMFS does not have the legal authority to modify. Requiring that a “significance threshold” be met before protecting EFH is not consistent with the law and would undercut EFH protection efforts. However, NMFS has made a good faith effort to streamline the protection process so that activities with minimal impacts may be covered under expedited review procedures.

The legal definition of EFH was created to protect the entire life cycle of managed fish species. The guidelines must apply to the areas where the fish live during all of their life stages. For many species, that includes coastal, riverine and estuarine waters. Therefore, EFH guidelines must apply where the fish are found, even in state waters.

In conclusion, I am very concerned that this additional ANPR will further undermine NMFS’s EFH protection efforts by creating uncertainty regarding the agency’s commitment to the program. NMFS should not revise the EFH guidelines; concerns about the program can be addressed through better implementation of the existing guidelines.

Thank you for considering my comments.

Sincerely,

Donald R. MacKinnon

812 SE 4th Ave.

Oak Harbor, WA 98277

Subject: Essential Fish Habitat,0648-AR76
Date: Mon, 19 Apr 2004 10:51:02 -0400
From: "Jerry van Duinen" <jerryvan@snet.net>
To: <0648-AR76@noaa.gov>

Dear Mr.Schmitt,

I have just received information indicating that your office may be considering lowering the guidelines protecting Essential Fish Habitat(HFH).It seems inconceivable to me that your office would even think about moving in this direction when the NMFS had previously stated that "one of the greatest threats to the long term viability of our fisheries is the destruction of marine, estuaries,and other habitats."

I ask that you redirect your thoughts and efforts to increasing and not decreasing the protection and of these critical and over stressed environments and look for ways to strengthen and not weaken the EFE guidelines.

Sincerely,

Jerry van Duinen
41 Sportsmans Hill Rd
Madison,Ct.06443

Subject: Fish Habitats
Date: Wed, 21 Apr 2004 15:01:49 -0700
From: "Scott Clemson" <sclmson@adsrm.org>
To: 0648-AR76@noaa.gov

Dear Mr. Schmitten,

I urge you to protect our oceans and not weaken existing essential fish habitat guidelines. One of the reasons I have chosen to be a vegetarian for the past twenty years is to withdraw any of my financial support from the fishing industry. We learned long ago that the terrestrial environment does not offer enough wild game to support our human population, and yet we tend to treat the oceans as if they ARE capable of being harvested in a limitless fashion. What used to be thrown away as by-catch by fishermen is now purveyed on the market as desirable, largely because the fish which were once desirable and available are now too scarce.

We look into the ocean and see nothing..."oh they're out there ...we just need to use better fishing techniques to find them." I was astounded to read Linda Greenlaw's book about swordfishing. She claimed that there was no diminution in available swordfish to catch by referring to the success of her catch....this after spending the last many pages describing the increasingly sophisticated ways of finding every existing swordfish. If there were as many swordfish as before and she was to utilize her advanced new improved techniques, she should have been catching more and larger swordfish than ever before instead of just managing to keep the old catch rate. This generally shortsighted logic is unfortunately often characteristic of the fishing industry. Many fish species are analogous to the now extinct passenger pigeon whose population and breeding dynamics are predicated on a HUGE population which when reduced below a critical mass will die off despite the fact that there are still many individuals left.

We must begin to treat the oceans as we do the land, preserving habitat for species to merely avoid extinction in some cases, while allowing sustainable harvests of species that can bear some human predation. This works on our land with game animals and birds as a small supplement to food produced by man. We do not go into our wildlands with huge nets and scrapers extracting all life, sorting through what we want, and disposing of the rest. Instead we skillfully allow the extraction of what the environment and individual species will allow, and we will be able to continue this perhaps indefinitely given the appropriate environmental protection. The variety of fish now taken will be unavailable for our children if we continue allowing the overharvesting and degradation of their habitat.

Sincerely,
g. Scott clemson
482 w alpine way
LV, NV 89124

Subject: don't weaken EFH guidelines
Date: Mon, 26 Apr 2004 12:56:11 -0400
From: "carv4243" <carv4243@fredonia.edu>
Reply-To: carv4243@fredonia.edu
To: Rolland.Schmitt@noaa.gov

Dear Mr. Schmitt,

NOAA defines habitat as the structural component of the environment that attracts organisms and serves as a center of biological activity. North Carolina's Coastal Habitat Protection Plan (CHPP) Program defines fishes habitat as, "a place, or set of places, in which a fish, fish population, or fish assemblage finds the physical, chemical, and biological features needed for life". These places are essential to the survival and continuance of a viable fisheries community. Environments from land to the deepest depths assemble into habitats wherein all parts of fisheries including the fish and other vertebrates, invertebrates, plants, fungi, algae, bacteria, and even human are clearly linked. To protect these should not be in any question or debate or litigation but a significant obligation to our very existence. Protecting habitat is not a short-term investment with large capital gains. It does not always make money but it does save money, the interest built on a healthy functioning habitat can create return that exceeds fiscal annuities. Activities of people consumed by capital gain, blinded by unawareness of behavioral consequences, can drastically change the functioning elements of eco-systems resulting in cruel effects to the stability of habitats. Magnuson-Stevens Act has implemented many very good initiatives to protect fisheries habitat, fish stock, and the fisherman whose livelihood depend on viable populations of fishes supported in sustainable methods. The failure has not been in the act or the wording but with people like you. The failure of this public resource lies in its management. Since before WWII the strategic resource of food as a commodity and economic foundation has been exclusively exploited to the greatest return in the least amount of space given. This is reflected in the management of fisheries around the country and the world. Subsidized short-term investments to stimulate privileged gains in a common resource, has left the shelves bare and the nets empty to future generations. Fisheries managers are still focusing on maximizing the commercial production of the resource, and promoting economic efficiency regardless of long-term impacts.

Between 1970 and 1992, the size of the world's industrial fishing fleet doubled. By 1992, there were 3.5 million fishing vessels representing 26 million gross register tons. Growing at twice the rate of the global catch, world-fishing fleets now have twice the capacity needed to harvest the maximum sustainable yield of the oceans. 21 countries take Eighty-two percent of the world marine catch; 15 of these are Asian Development Bank members, and 9 were developing members in 1994, including the Peoples Republic of China, which accounted for the largest catch (11.7 million t). The countries of the world will not stop to consume as much of the pie as possible until the crust is dry. The UN's FAO study in 1992 estimated that globally there was a \$54 billion annual deficit between fishing revenues and costs, most of which was presumed to be subsidized by governments. These are the same kind of subsidies that

essentially eradicate the fisheries of Georges Bank Little hope can be given to the conditions of the world's fisheries considering the U.S.A. is supposedly a leader in such matters as resource management, environmental awareness, and policy based on scientific recommendation. Instead the response of the industry and governments charged with regulation have dismissed scientific studies leaning toward a "sustainable regimen for protecting our oceans" and diverted interest away from crisis. The future of the oceans lies in it own ability to recover well after the human population has collapsed unto its own demise.

Sincerely,
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